

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JUAN MARRUFFO, :
Petitioner, : NO. 1:04-CV-00224
: :
: : **ORDER**
v. :
: :
: :
TIM BRUNSMAN, :
: :
: Respondent. :
:

On March 26, 2005, the Court received Petitioner Juan Marruffo's Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (doc. 1). Respondent Tim Brunsman filed a Return of Writ on May 6, 2005 after being ordered by the assigned Magistrate Judge to show cause (doc. 4), and the Court received Petitioner's Traverse on May 17, 2004 (doc. 5). Ultimately, the assigned Magistrate Judge issued a Report and Recommendation on May 31, 2006, recommending that the pro se Petition be dismissed with prejudice, that no certificate of appealability should issue, and that the Court should deny Petitioner leave to proceed in forma pauperis on appeal as an appeal of the Order would not be taken in good faith (doc. 8).

Petitioner was served with the Report and Recommendation and was therefore afforded proper notice of the Magistrate Judge's Report and Recommendation required by 28 U.S.C. § 636(b)(1)(C), including that failure to file timely objections to the Report and

Recommendation would result in a waiver of further appeal. See United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981). Petitioner has failed to file any objections thereto within the ten days provided for by Fed. R. Civ. P. 72(b) and 28 U.S.C. § 636(b) (1) (C). Pursuant to 28 U.S.C. §636(b), the Court has reviewed the Report and Recommendation de novo, finding it both thoughtful and proper.

Having reviewed that Magistrate Judge's Report and Recommendation, the Court finds it to be well-reasoned and thorough. Accordingly, the Magistrate Judge's Report and Recommendation (doc. 8) is hereby ADOPTED IN ITS ENTIRETY. Petitioner's Petition for Writ of Habeas Corpus (doc. 1) is DISMISSED WITH PREJUDICE. Issuance of a certificate of appealability of this Order pursuant to 28 U.S.C. § 2253(c) is DENIED. The Court hereby CERTIFIES pursuant to 28 U.S.C. § 1915(a) (3) that any appeal of this Order may not be taken in good faith; leave to proceed in forma pauperis on appeal is therefore DENIED.

SO ORDERED.

Dated: July 25, 2006

/s/ S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge